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RECENT LEGAL LITERATURE

A TREATISE ON SPECIAL SUBJECTS OF THE LAW OF REAL PROPERTY. By Alfred G. Reeves, A.M., LL.B., Boston: Little, Brown & Company, 1904. pp. lxxv, 913.

This work contains a general outline of real property law and a more elaborate treatment of the subjects of fixtures, incorporeal hereditaments, tenures and alodial holdings, uses, trusts and powers, qualified estates, mortgages, future estates, perpetuities and accumulations. The volume furnishes a full exposition of the subjects discussed; and it is the author's purpose, as explained in the preface, so to add to the work "within the next three or four years, as to furnish a treatise, in two volumes, on all the topics ordinarily comprised within the law of real property." The general outline of the present and prospective parts of the treatise, as given in the fourth chapter of the volume before us, indicates a logical and comprehensive plan. The introductory chapters comprise, besides the general outline, to which reference has been made, a brief classification of property, a somewhat detailed discussion of the subject of fixtures and in regard to property, other than fixtures, that is sometimes realty and sometimes personalty. Book I, which is complete according to the plan, deals with the kinds of real property. After a brief explanation of the terms "lands and tenements" and "corporeal hereditaments," the author proceeds to discuss, in a very clear and comprehensive way, the incorporeal hereditaments that are of special importance in the United States. His chapters on easements and servitudes are especially to be commended. Holdings of real property is the general subject of Book II, and herein are discussed Anglo-Saxon holdings; the feudal system and its fruits and real property holdings in the United States. In this part of the work, the author has so considered the historical matter that the student will have little difficulty in appreciating its bearing upon the modern law of real property. Book III is devoted to estates in real property, and in the present volume the plan of this book is only partially carried out. Estates are herein classified and explained (1) with reference to the courts that recognize them, (2) with reference to their conditional or qualified nature, and (3) with reference to the time for their enjoyment to begin. As the author explains in his preface, three leading subjects are reserved for future discussion in detail, namely: "estates considered with reference to their quantity, from the fee simple down to and including tenancies at sufferance; estates considered with reference to the number and connection of their owners,—estates joint, in common, by entirety, etc., and the entire subject of titles to real property." All of the foregoing, except the subject of title, to which Book IV of the completed treatise will be devoted, will eventually, according to the author's plan, form a part of Book III.

One cannot examine the present volume without being impressed with the thoroughness of the work and with the clearness of the author's statement of legal principles. As a rule, no second reading is required in order to get the meaning. The excellencies of the book are such that one can readily

pardon a few inaccuracies, like the statement, for example, on p. 91, that the estate by the entirety "exists in most of the United States," the fact being that it exists in only about one-third of the states.

The author's purpose is to give the common law of real property. He has not attempted to show the statutory changes in the different states, excepting in the state of New York, and the changes there are given in the notes. He selects the New York codification as a typical one, and as important especially because it has served as "a model for so much legislation of other states."

From the point of view of the student, this volume will undoubtedly rank among the best upon the subject. It may perhaps be criticised by practitioners for its rather limited reference to authorities.

H. B. HUTCHINS.

THE DATA OF JURISPRUDENCE. By William Galbraith Miller, Advocate. Edinburgh and London: William Green & Sons, 1903. pp. ix, 477.

"The Data of Jurisprudence" is an ambitious title, and the treatise hardly fulfils the promise implied in it. The author informs us that the volume is the first installment of a treatise on jurisprudence, but that it is so far complete in itself; that he is more anxious to state the problem, "What is right? What is law?" than at present to offer any solution. Yet he also claims to have provisionally traced in each section a scientific law of jural law.

These sections or chapters are entitled: The Physical Basis of Right; Right; Bond—Obligation—Duty; Law; Custom; The Aim of Law. Under each of these heads a considerable number of elementary juristic concepts are taken up for discussion in somewhat disconnected and unsystematic fashion. The impression created is rather that of a compilation of miscellaneous notes, than that of a careful elaboration of leading principles.

It is, however, not to be denied that there are many shrewd observations on problems of legal philosophy, and a good deal of curious and out-of-the-way information, especially on points of nomenclature and etymology, and many interesting illustrations from Scotch law, of which we know so little.

The lawyer who takes up the book for casual reading will be sure to derive from it entertainment and instruction. But it is not a systematic exposition of jurisprudence, nor a book to be placed in the hands of students as an elementary treatise.

ERNST FREUND.

AMERICAN STATE REPORTS. Vols. 96, 97, 98. San Francisco: Bancroft-Whitney Company, 1904.

This excellent set of reports of which three volumes are at hand has received some attention in this Review and reference is made to the commendation and criticism already written. 1 MICHIGAN LAW REVIEW, 155, 426; 2 *Id.* 77, 240, 740. The notes certainly cover a wide field and are generally valuable. Each monograph is arranged in logical form and is not a mere diffuse collection of cases. The research displayed differs from that of the digester and shows the efforts of an independent reasoner whose analysis has been well made.

Some of the important notes in volume 96 are: Application of Payments,